

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

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| DAVID H. BROWN, on his own stead and as parent with patria potestas and custody over minor JUSTIN WILLIAMS BROWN Plaintiffs Vs. ALL INTERIORS, INC.; HECTOR L. FLORES-FERMUDEZ; JOHN DOE CORP. and ABC INSURANCE COMPANY Defendants | CIVIL NO. 09-1538 PLAINTIFF DEMANDS TRIAL BY JURY |
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C O M P L A I N T

TO THE HONORABLE COURT:

NOW COME plaintiff, David H. Brown and his minor son Justin William Brown, through the undersigned attorneys, **TRONCOSO SCHELL & BOBONIS**, and very respectfully state, alleges and prays as follows:

I. JURISDICTION AND ALLEGATIONS

COMMON TO ALL CLAIMS

1. Jurisdiction exists pursuant to 28 U.S.C. § 1332, in that plaintiffs David H. Brown and his minor son Justin William Brown are citizens of the State of Connecticut; defendant All Interiors, Inc., is a corporation organized and existing under the laws of the Commonwealth of Puerto Rico; defendant Héctor L. Flores Bermúdez is

domiciled in the Commonwealth of Puerto Rico; defendant John Doe Corp. is an individual or entity domiciled or incorporated in a state other than the State of Connecticut; defendant ABC Insurance Company is an insurance company organized and existing by virtue of the laws of a state other than the State of Connecticut, with its principal place of business in a state other than the State of Connecticut; and the amount in controversy in each claim exceeds the sum of \$75,000.00, exclusive of interest and costs.

2. Plaintiff David H. Brown is of legal age, the parent with patria potestas and custody over minor plaintiff Justin William Brown, whom he procreated with his ex wife, the late Lola Ríos-Mercado.

3. Plaintiff Justin William Brown was born on March 4, 1994, of the relationship between Mr. David H. Brown and the late Lola Ríos-Mercado, with whom he lived until July 21, 2008, when she passed away.

4. Defendant All Interiors, Inc., is a corporation engaged in the distribution and sale of construction products. As part of its business operations, as of July 21, 2008, it owned and operated a 1999 Ford truck, model F-450, PR license plate no. H-35355.

5. Defendant Héctor L. Bermúdez-Flores, is of legal age, as of July 21, 2008, he was employed by defendant All Interiors, Inc., and drove the 1999 Ford truck, model F-450, PR license plate no. H-

35355, with the express consent of his employer and within the scope of his employment for All Interiors, Inc.

6. Defendant John Doe Corp. is an individual or entity whom may be liable to plaintiff for the operations of the 1999 Ford truck, model F-450, PR license plate no. H-35355. Once his/its true name and identity is ascertained, the corresponding amendments to this complaint will be made.

7. Defendant ABC Insurance Co., is the insurance carrier[s] that issued and maintained in full force and effect a public liability policy on behalf of defendants All Interiors, Inc., Mr. Flores-Bermúdez and/or John Doe Corp., which provides defense and coverage for the facts alleged herein. Once its [their] true name(s) and identity[ies] is ascertained, the corresponding amendment to this Complaint will be made.

II. FACTS

8. On July 21, 2008, Ms. Lola Ríos-Mercado worked at the Pall Biomedical pharmaceutical company in Fajardo, PR, as a group leader. At about 11:45 a.m., Ms. Ríos-Mercado walked in front of Building no. 2 of the Pall Biomedical facilities, a facility which was under construction. At the same time, defendant All Interiors, Inc., was about to deliver some construction materials, in which task defendant Flores-Bermúdez was driving the 1999 Ford

truck, model F-450, PR license plate no. H-35355.

9. While defendant Flores-Bermúdez backed the 1999 Ford truck, model F-450, PR license plate no. H-35355, towards Building no. 2, in order to deliver the construction materials associated with the construction work, he failed to notice that Ms. Ríos-Mercado was behind the truck.

10. Due to his omission to notice Ms. Ríos-Mercado behind the truck as he backed towards Building no. 2, defendant Flores-Bermúdez impacted Ms. Ríos-Mercado with the truck's right rear side mud flap and then ran over her. As a result thereof, Ms. Ríos-Mercado laid critically injured in great pain in the pavement.

11. Shortly after being ran over by the 1999 Ford truck, model F-450, PR license plate no. H-35355, driven by defendant Flores-Bermúdez, the emergency medical services were summoned to the accident scene and Ms. Ríos-Mercado was transported to the Caribbean Medical Center Hospital in Fajardo, PR.

12. At the Caribbean Medical Center Ms. Ríos-Mercado's condition was diagnosed as having sustained multiple head trauma and after suffering excruciating pain and mental anguish, she subsequently passed away.

13. As a result of the death of his mother's death, minor plaintiff Justin William Brown is now an orphan, at the tender age

of 15 years.

III. LIABILITY

14. The injuries suffered by Ms. Ríos-Mercado on July 21, 2009, were proximately caused by the negligence of defendant Héctor L. Flores-Bermúdez, who while acting within the scope of his employment for All Interiors, Inc., drove the 1999 Ford truck, model F-450, PR license plate no. H-35355, in a reckless and negligent manner, detrimental to the safety of pedestrians like Ms. Ríos-Mercado.

15. By not taking the necessary precautions and backing up the 1999 Ford truck, model F-450, PR license plate no. H-35355, in a distracted manner, defendant Héctor L. Flores-Bermúdez, acted recklessly and carelessly toward the safety of the pedestrians in the area, like Ms. Ríos-Mercado, in gross violation of Puerto Rico's Traffic Laws.

16. Defendant All Interiors, Inc., is liable to Plaintiff for the damages suffered by them as a result of the untimely death of Ms. Ríos-Mercado, an event which occurred solely and exclusively as a result of the negligent actions and/or omissions of defendant Héctor L. Flores-Bermúdez, inasmuch as at the time that the events occurred he was acting within the scope of his employment for All Interiors, Inc.

17. Pursuant to the provisions of Articles 20.001 and 20.003 of the Insurance Code of Puerto Rico, 26 L.P.R.A. §§ 2001 and 2003, defendant ABC Insurance Company is directly liable to plaintiff for the damages suffered by its insureds' negligent acts and/or omissions.

IV. DAMAGES

18. As a result of the negligent acts and/or omissions of the Defendants, Ms. Ríos-Mercado suffered damages throughout her body, but particularly to her head, which subsequently resulted in her death. As a result thereof, she suffered extreme and excruciating physical pain and anguish, valued in a sum in excess of \$1,000,000.00, a cause of action that is inherited by her son Justin William Brown.

19. As a result of the injuries caused by the negligent acts and/or omissions of the Defendants, plaintiff Justin William Brown has been deprived of his mother's company, care and love, as a result of which he has suffered, and will continue to suffer, excruciating mental anguish and pain, damages which are estimated in an amount in excess of \$1,000,000.00.

20. Plaintiff Justin William Brown was economically dependent on his mother's income for his sustenance, and by reason of her untimely death has suffered a loss of income in excess of the sum

of \$50,000.00.

21. As a result of death of his exwife and, particularly, as a result of the grief suffered by his son as a result of the death of his mother, plaintiff David H. Brown has suffered excruciating mental pain and anguish, damages estimated in a sum in excess of \$250,000.00.

22. As a result of the negligent acts and/or omissions of the Defendants, Ms. Ramos-Colón has suffered a loss of income of about \$8,000.00.

23. Defendants have been obstinate and according to the laws of Puerto Rico, they are not only liable for the payment of the principal claimed herein, but also for the payment of interest accrued since the date of the filing of the complaint and for the payment of attorneys' fees.

WHEREFORE, it is respectfully requested that this Honorable Court enter judgment against Defendants All Interiors, Inc., Héctor L. Bermúdez-Flores, John Doe Corp. and ABC Insurance Company, ordering them to pay to plaintiffs David H. Brown and his minor son Justin William Brown the sums prayed herein, as well as to pay a reasonable amount for attorneys' fees, interest and the costs of this action.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico this 15th day of June 2009.

I HEREBY CERTIFY that on June 15, 2009, I presented the foregoing to the Clerk of the Court for filing and uploading to the CM/ECF system.

s/ Richard Schell-Asad

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